HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

W.P. No.14108 OF 2007

Between:

The Mandal Revenue Officer,Chirala,
Prakasam District and another

. . .Petitioner

AND

M.Sardar Khan and another

. . .Respondents

:: ORDER ::

Counsel for the petitioners : Government Pleader for Revenue

10th July, 2007

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PER G.S.SINGHVI, CJ

This petition by Mandal Revenue Officer (now re-designated as Tahasildar), Chirala Mandal, Prakasam District and another is directed against orders dated 19.03.2004 and 16.10.2006 passed by District Consumer Forum, Prakasam District at Ongole (for short, 'the District Forum') and Andhra Pradesh State Consumer Disputes Redressal Commission (for short, 'the State Commission') respectively.

Shri M. Sardar Khan (deceased), who is now represented by his son M. Mahaboob Khan filed complaint under Section 12 of the Consumer Protection Act, 1986 (for short, 'the Act') with the allegation that he was allotted Ac.5.00 of land in Survey No.700/2 at Gavinivaripalem Village of Chirala Mandal, Prakasam District as a freedom fighter, but his application for grant of pattadar pass book in terms of Andhra Pradesh Rights in Land and Pattadar Pass Books Act, 1971 has not been decided. He prayed that a direction be given to the opposite parties (the petitioners herein) to issue pattadar pass book and title deed in respect of land allotted to him as freedom fighter.

The opposite parties (the petitioners herein) contested the application by asserting that the land allotted to M. Sardar Kan was in possession of Kavuri Koti Reddy, Munnam Reddaiah and Kavuri Chandra Reddy and he has no right to seek pattadar pass book because he had sold the land by unregistered document.

On a consideration of the pleadings and documents produced by the parties, the District Forum allowed the complaint and directed the opposite parties to issue pattadar pass book to the complainant in respect of the said land.

The petitioners challenged the order of the District Forum by filing an appeal under Section 15 of the Act. At the hearing of the appeal, learned Government Pleader made a statement that the concerned revenue authorities have made enquiry and that they are in the process of restoring the land to the complainant. After taking note of his statement, the State Commission disposed of the appeal by recording the following observations and order:

> " The learned Government Pleader appearing on behalf of the appellants has fairly stated that the respondent/complainant who was assigned Ac.5.00 of land did not appear before an enquiry before the Mandal Revenue Officer and further submitted that a detailed enquiry was made by the revenue authorities under ROR Act and they found that third parties are not entitled to the lands and they are in the process of restoring the land to the respondent/complainant, who is the original assignee. Recording the statement of the learned Government Pleader, we dispose of the appeal directing the respondent/complainant to appear before the Mandal Revenue Officer and the MRO shall conduct an enquiry and issue Pattadar Pass Book within 8 weeks from the date of receipt of this order. The order of the District Forum directing payment of compensation is set aside and confirmed with respect to the direction of payment of costs of Rs.1,000/-.
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> In the result, the appeal is allowed in part directing the respondent/complainant to appear before the MRO shall conduct an enquiry and issue Pattadar pass book within 8 weeks from the date of receipt of this order. The order of the District Forum directing payment of compensation is set aside and confirmed with respect to the direction of payment of costs of Rs.1,000/-."

We have heard learned Government Pleader for Revenue and perused the record. Learned Government Pleader fairly conceded that the order passed by the State Commission is entirely founded on the

concession made by the counsel appearing for the petitioners, but argued that the orders impugned in the writ petition are liable to be set aside because the advocate was not authorized to concede to the rights of late Shri M. Sardar Khan.

We have considered the submission of the learned counsel, but have not felt persuaded to accept the same because the petitioners have not produced any evidence before the Court to show that the counsel appearing on their behalf had made statement before the State Commission without being authorized to do so. This being the position, the petitioners cannot be allowed to indirectly question the statement made by their advocate before the State Commission which led to adjudication of the appeal otherwise than on merits. We are sure that if the counsel appearing for the petitioner had not conceded the matter before the State Commission, the latter would have adjudicated the issue on merits. However, in view of the statement made by the advocate, the State Commission did not examine the issue raised in the appeal on merits and passed order to which reference has been made hereinabove. Therefore, at this stage, the petitioners cannot be permitted to disown the statement made by the advocate.

For the reasons stated above, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P.No.17706 of 2007 filed by the petitioners for interim relief is also dismissed.

G.S.SINGHVI, CJ

10th July, 2007

C.V.NAGARJUNA REDDY, J

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